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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/616,718	07/14/2000	Bert L. Vallee	11187-00001	5959
27716	7590	03/01/2007		
CV THERAPEUTICS, INC. 3172 PORTER DRIVE PALO ALTO, CA 94304			EXAMINER SPIVACK, PHYLLIS G	
			ART UNIT	PAPER NUMBER
			1614	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/01/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/616,718

Applicant(s)

VALLEE ET AL.

Examiner

Phyllis G. Spivack

Art Unit

1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Applicants' Amendment filed December 14, 2006 is acknowledged. Claims 1-3 and 13 remain under consideration.

In the last Office Action a Restriction Requirement was set forth under 35 U.S.C. 121. Group II, drawn to methods for increasing the concentration of 5-hydroxy-3-indole-3-acetaldehyde or 3,4-dihydroxyphenyl-acetaldehyde formed during catabolism of serotonin or dopamine comprising administering a compound of instant Formula I, was elected. An Interview Summary Statement indicating Applicants' election was mailed with the last Office Action. During the telephone conversation with J. Elin Hartrum on September 11, 2006, a provisional election was made to prosecute the invention of Group II, methods for increasing the concentration of 5-hydroxy-3-indole-3-acetaldehyde or 3,4-dihydroxyphenyl-acetaldehyde formed during catabolism of serotonin or dopamine, claim 3.

The general policy of the Office is not to permit Applicants to shift to another invention after an election is made and an Action is given on the elected subject matter. See MPEP 819. Further, note that Applicants cannot, as a matter of right, file a request for continued examination (RCE) to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined.

Accordingly, claims 1, 2 and 13 remain withdrawn from consideration by the Examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention. Claim 3 remains under consideration.

In Applicants' Response filed December 14, 2006 on page 7, there is an incomplete sentence in the middle of the page, i.e., "In the claims 1, 3, and 13 have".

Further, there are no underlinings in any of the claims to show the presently amended subject matter.

Clarification is required.

Applicants are requested to point out where in the specification support is provided for the insertion of "serotonin or dopamine" following the deletion of "a neurotransmitter" in claim 3.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

In the last Office Action it was asserted the abstract of the disclosure is not drawn to the subject matter that is presently claimed. Correction is required. See MPEP § 608.01(b).

No response is noted. The objection is maintained.

Claim 3 was rejected under 35 U.S.C. 112, second paragraph, in the last Office Action as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. It was asserted the R group in claim 3 is substituted or unsubstituted. Those substituents that apply to any or all of the options for R, i.e., a sugar moiety, a peptide, a polyether or an aminoalkyl group, cannot be precisely determined. It is unclear what substituents are contemplated and to which option they are applicable. Applicants should recite those substituents contemplated for each of the options for the R term.

No response is noted. The rejection of record under 35 U.S.C. 112, second paragraph, is maintained.

No claim is allowed.

THIS ACTION IS MADE FINAL. Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this Final Action is set to expire THREE MONTHS from the mailing date of this Action. In the event a first reply is filed within TWO MONTHS of the mailing date of this Final Action and the Advisory Action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the Advisory Action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the Advisory Action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this Final Action.

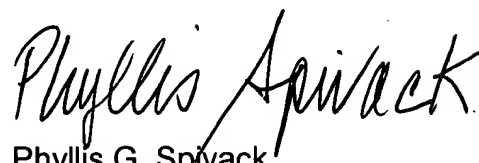
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Phyllis G. Spivack whose telephone number is 571-272-0585. The Examiner can normally be reached on 10:30 AM-7 PM.

If attempts to reach the Examiner by telephone are unsuccessful after one business day, the Examiner's supervisor, Ardin Marschel, can be reached at 571-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 26, 2007

A handwritten signature in black ink that reads "Phyllis Spivack". The signature is written in a cursive, flowing style.

Phyllis G. Spivack

**PHYLLIS SPIVACK
PRIMARY EXAMINER**